

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN A FEDERAL CUSTODY

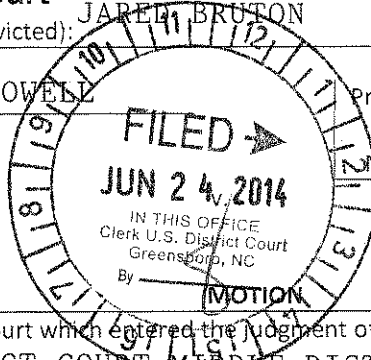
**United States District Court** District

Name (under which you were convicted): JARED BRUTON Docket or Case No.: 1:01CR263-1

Place of Confinement: FCI MCDOWELL Prisoner No.: 22160-057

UNITED STATES OF AMERICA Movant (include name under which convicted)

JARED BRUTON



1. (a) Name and location of court which entered the judgment of conviction you are challenging:  
UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF NORTH CAROLINA
- (b) Criminal docket or case number (if you know): 1:01CR263-1
2. (a) Date of the judgment of conviction (if you know): MARCH 18, 2005  
(b) Date of sentencing: MARCH 18, 2005
3. Length of sentence: 360 months
4. Nature of crime (all counts): CONSPIRACY TO DISTRIBUTE BOTH CRACK COCAINE AND COCAINE HYDROCHLORIDE-COUNT ONE; COUNT FOUR- POSSESSION OF A FIREARM IN FURTHERANCE OF COUNT ONE
5. (a) What was your plea? (Check One)  
(1) Not Guilty ☐ (2) Guilty ☒ (3) Nolo contendere (not contest) ☐  
(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?  
N/A
6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge Only ☐
7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No ☐
8. Did you appeal from the judgment of conviction? Yes ☒ No ☐
9. If you did appeal, answer the following:  
(a) Name of court: FOURTH CIRCUIT COURT OF APPEALS  
(b) Docket or case number (if you know): 172 Fed. Appx. 511(2006)  
(c) Result: AFFIRMED  
(d) Date of result (if you know): N/A  
(e) Citation to the case (if you know): UNITED STATES V. BRUTON, 172 Fed. Appx. 511  
(f) Grounds Raised: N/A



(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

(5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒ No ☐

11. If you answer to Questions 10 was "Yes," give the following information:

(a) (1) Name of court: UNITED STATES DISTRICT COURT MIDD.DIST.N.C.

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: TITLE 28 U.S.C. §2255

(5) Grounds raised: CAREER OFFENDER ENHANCEMENT ERRONEOUS

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☒ No ☐

(7) Result:

(8) Date of result (if you know):

- (b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court:

(2) Docket of case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:



(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☐

(7) Result: \_\_\_\_\_

(8) Date of result: \_\_\_\_\_

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE: PETITIONER NO LONGER GUILTY OF THE CAREER OFFENDER ENHANCEMENT IN LIGHT OF DESCAMPS V. UNITED STATES**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):  
Petitioner avers that he is no longer a career offender in light of a Supreme Court Ruling (recently decided).

SEE: ATTACHED MEMORANDUM (HERETO)

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

SEE: MEMORANDUM ATTACHED HERETO

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_



Result (attach a copy of the court's opinion order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application? Yes ☐ No ☐

(5) If you answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☐ No ☐

(6) If you answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND TWO:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why?

\_\_\_\_\_  
\_\_\_\_\_

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application? Yes ☐ No ☐

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_



Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, application?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(4) Did you appeal from the denial of your motion, petition, or application?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**GROUND THREE:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

\_\_\_\_\_  
\_\_\_\_\_

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available):



- (3) Did you receive a hearing on your motion, petition, or application? Yes ☐ No ☐
- (4) Did you appeal from the denial of your motion, petition, or application? Yes ☐ No ☐
- (5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal? Yes ☐ No ☐
- (6) If your answer to Question (c)(4) is "Yes," state:  
Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue:

**GROUND FOUR:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

- (c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):



(3) Did you receive a hearing on your motion, petition, or application?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
(4) Did you appeal from the denial of your motion, petition, or application?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

GROUND IS INITIAL HEREIN  
GROUND UNAVAILABLE PREVIOUSLY

14. Do you have any motion, petition, or appeal not pending (filed and not decided yet) in any court for the judgment you are challenging?

Yes ☐ ~~XX~~ ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing: DAVID B. SMITH, ESQUIRE, 400 WEST MARKET ST.  
SUITE 508, GREENSBORO, N.C. 27401

(b) At the arraignment and plea:

\*\*\*\*\*

(c) At the trial: N/A

(d) At sentencing: \*\*\*\*\*

(e) On appeal: \*\*\*\*\*



(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding:  
N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

PETITIONER POSITIONS THAT THIS MOTION IS TIMELY FILED WITHIN A  
ONE-YEARS PERIOD OF THE JUNE 20,2013 ruling in Descamps v.  
UNITED STATES AND IS TIMELY FILED.

\*The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:



A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of -

- (1) the date of which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: VACATE SENTENCE FOR CORRECTION IN LIGHT OF DESCAMPS; APPOINT COUNSEL TO REPRESENT CLAIMS

or any other relief to which movant may be entitled.

Pro Se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on

6-19-2014

(month, date, year)

Executed (signed) on 6-18-2014 (date)

Jared Britton  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

N/A







months of imprisonment on Count One, and 60 months consecutive on Count Four. Bruton appealed, and on March 8, 2006, the Court of Appeals affirmed. *United States v. Bruton*, 172 Fed. Appx. 511 (2006).

WITHIN THE FOLLOWING GROUNDS JARED BRUTON WILL  
DEMONSTRATE THAT HE IS ENTITLED TO TITLE 28 U.S.C.  
§2255 HABEAS RELIEF.

1.) - GROUND ONE: PETITIONER IS NO LONGER GUILTY OF THE CAREER  
CAREER OFFENDER GUIDELINE ENHANCEMENT IN LIGHT  
OF *DESCAMPS V. UNITED STATES*

Petitioner avers herein that he is no longer guilty of the career offender Guideline Sentence in light of *Descamps v. United States*, 570 US \_\_\_, 133 S.Ct. \_\_\_, 186 L. Ed 2d 438, 2013 US LEXIS 4698 (2013). Petitioner positions that a August 27, 1991, Stanly County Conviction for misdemeanor assault inflicting serious injury, a violation of N.C. Gen. Stat. §14-33(B)(1), is no longer applicable for the career offender guideline enhancement. Petitioner argues that assault inflicting serious injury has been codified, but the elements of the crime have not. See *State v. Roberts*, 270 N.C. 655, 658, 155 S.E.2d 303 (1967) ("There is no statutory definition of assault in North Carolina, and the crime of assault is governed by common law rules. [N.C.] G.S. §14-33 does not create a new offense as to assaults on a female, but only provides for different punishments for various types of assault."). The statute sets forth four methods of committing the offense: Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon. This court should examine each



in turn. Petitioner's position here is that in the eastern district of North Carolina, at least one court has dismissed an indictment based upon the reasons as averred by Petitioner in this pro se habeas motion. In *United States v. Rodney Marshall Vinson*, 2013 U.S. Dist. LEXIS 180680, No.5:13-CR-121-FL(2013), a motion to dismiss an indictment was filed in the district court for the eastern district of North Carolina. where the defendant was indicted for a violation under 18 U.S.C. §922(g)(9) and 924, which proscribed possession in or affecting commerce, any firearm or ammunition, by a person convicted in any court of a "misdemeanor crime of domestic violence." The indictment states as a predicate offense that defendant was convicted in state court in 2004 of assault on a female, in violation of N.C. Gen. Stat. §14-33(c)(2)("state conviction").

Petitioner's position here is that the motion to dismiss the indictment was granted in light of the High Court's recent rule in Descamps. The motion to dismiss the indictment was filed in the court for "failure to state an offense". The defendant in Vinson argued that his state conviction cannot serve as predicate misdemeanor crime of domestic violence for purposes of 18 U.S.C. §922(g)(9), citing Descamps, 133 S.Ct. 2276, 186 L.Ed. 2d 438, as support. Arraignment was continued pending resolution of that motion. The argued position here is that the state statute 14-33, when viewed under the categorical approach, is not the crime of violence as defined under §4B1.2(a). Where the government may position that the modified categorical approach



should apply, Petitioner positions that the modified categorical approach is inapplicable in this case where the Fourth Circuit recently has confirmed that "alternative means" of committing a crime do not constitute alternative elements to justify application of the modified categorical approach. Hemingway, 734 F.3d at 334; Descamps, 133 S.Ct. at 2285 n.2. Absent alternative elements for commission of the offense, the modified categorical approach is inapplicable. Petitioner contends that the North Carolina statute is not divisible, because, as the statute reads: "Inflicts, or "attempts to inflict", "serious injury" upon another person or "uses a deadly weapon" are alternative "means" of committing the crime of assault inflicting serious injury. United States v. Royal, 731 F.3d at 340-42, is instructive by comparison. There the Fourth Circuit examined a Maryland assault statute to determine if it was divisible. Id. The Court observed that the relevant statute was "facially indivisible", where it "provide[d] simply that a person may not commit an assault[,]" and "'[a]ssault' encompasses the crimes of assault, battery, and assault and battery..." Id. at 340 n.1 (citation and internal quotation marks omitted). In addition, the Court observed that "[t]o convict a defendant of an assault of the battery variety under Maryland law, the state must prove that (1) the defendant caused offensive physical contact with, or harm to, the victim..." Id. at 341. Accordingly, the Court determined that "offensive physical contact" and "physical harm" are not alternative elements of the offense where a jury only has to agree "that one of the two



occurred, without setting on which." Id. "Rather than alternative elements, then, 'offensive physical contact' and 'physical harm' are merely alternative means of satisfying a single element of the Maryland offense." Id. As a result, the modified categorical approach had "no role to play." Id. (quoting Descamps, 133 S.Ct. at 2285.). Petitioner positions that the "or uses a deadly weapon" fits a totally different N.C. Gen. Stat. for a felony assault with a deadly weapon inflicting serious injury. N.C. Gen. Stat. §14-32(b). With that statute, the state must show: (1) an assault;(2)with a deadly weapon;(3)inflicting serious injury;(4)not resulting in death. See State v. Aythche, 98 NC App. 358,366,391 S.E. 2d 43,47(1990). Petitioner's position that the use of a deadly weapon element is an alternative means to the simple assault statute as provided under §14-33(b)(1); Therefore, Petitioner's case fits the Fourth Circuit's rulings in Royal and Hemingway when read in light of Descamps and Petitioner positions in furtherance, that even under a general divisible statute, as argued here, would be a misapplication of the modified categorical approach in this case where neither of the hypothetical alternative elements -that is,assault and assault with a deadly weapon -is categorically a predicate offense. See: United States v. Cabrera-Umanzor,728 F.3d 347, 352(4th Cir. 2013)("General divisibility, however,is not enough;a statute is divisible for purposes of applying the modified categorical approach only if at least one of the categories into which the statute may be divided constitutes,by its elements, a[predicate



offense]."). See also Descamps, 133 S.Ct. at 2285. Because the crime of simple assault is comprised of indivisible elements and neither of the hypothetical alternative elements at issue constitutes a predicate offense for the career offender guideline enhancement. The charging documents in this case does not describe an assault with a deadly weapon. Simple assault under N.C. Gen. Stat. §14-33(b)(1), a misdemeanor, under Fourth Circuit prior precedents and determination is inapplicable to the instant context because "crime of violence" is defined more broadly than "misdemeanor crime of assault with inflicting serious injury". In particular, a prior conviction that has as an element the threatened use of physical force against another person does not constitute a misdemeanor crime of assault under the sentencing guidelines as defined by 4B1.2(a).

Petitioner positions that Descamps is relevant here as being applied to Petitioner's case, because §4B1.2(a) required the sentencing judge to determine whether the simple assault conviction was a crime of violence. Just as the sentencing judge in Descamps was required to determine if the defendant in Descamps have the predicate offense for the application of the Armed Career Criminal Act Statutory enhancement. (ACCA)(18 U.S.C. §924(e)) (§4B1.4).

For all of the reasons stated above Jared Bruton should be granted §2255 habeas relief.



## I. RETROACTIVITY

Petitioner positions that Descamps is retroactive to his case where the ruling in the High Court's recent case was decided in light of Johnson v. United States, 559 U.S. 133, 130 S.Ct. 1265, 176 L.Ed. 2d 1 (2010), an old rule of Supreme Court ruling. Therefore, the Teague analysis does not apply in this case and Descamps is pertinent to Petitioner's case. The rule in Descamps is retroactively applicable to Petitioner's case on collateral review.

## II. TIMELINESS

Petitioner positions that his motion is timely in light of Descamps where Descamps was decided on June 20, 2013. Petitioner files this motion within the one-year of the High Court ruling and the claims are on all fours with the ruling in Descamps and, as Petitioner suggests, he may be "no longer guilty" of the career offender Guideline Enhancement. See Mcquiggin v. Perkins, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1924, 1927, 185 L.Ed. 2d 1019 (2013).

even assuming, however, that the limitations period commenced when Petitioner's conviction became final, equitable tolling might apply. the motion could not be dismissed as untimely without first giving Petitioner an opportunity to respond, Herbst v. Cook, 260 F.3d 1039, 1043-44 (9th Cir. 2001), and the surest way to decide whether Petitioner's motion is timely is to appoint counsel and set a hearing. Alternatively, it should be assumed



that, without deciding, that petitioner's motion is timely filed.

### III. SECOND OR SUCCESSIVE MOTION

Petitioner addresses a second or successive motion under §2255 in case the court or the government positions that Petitioner has previously filed a motion under §2255(which is the case here) but Petitioner does contest the fact that this motion is not to be considered a successive filed motion under §2255. Petitioner positions that this motion is not a successive motion where the claim that is presented herein was unripe for any previous submission to this court for a ruling. Panetti v. Quateman, 551 U.S. 930, 944,127 S.Ct. 2842,168 L.Ed. 2d 662(2007). Instead, only claims that could have been raised in an earlier habeas corpus petition are barred. Accordingly, "where the subsequent section 2255 motion asserts a claim that was not ripe at the time of the prior section 2255 motion, the subsequent section 2255 is not Second or Successive under the AEDPA. Scott v. United States, 761 F. Supp. 2d 320,325(E.D.N.C. 2011) ; SeePanetti, 551 U.S. at 947("We are hesitant to construe [the] statute... in amanner that would require unripe claims to be raised as a mere formality, to the benefit of no party").

Here, Petitioner's current §2255 motion is not 'second or successive' because the claim on which it is based could not have been brought at the time Petitioner filed his perevious motions.

For the reasons stated above Jared Bruton should be granted



§2255 habeas relief.

**IV. IN CONCLUSION**

In conclusion, Jared Bruton should be granted habeas relief for all of the reasons stated above in this motion. Bruton requests that this Honorable Court will Vacate, set-aside or Correct his Sentence Under §2255 to a term that is inconsistent of the career offender guideline enhancement in light of Descamps.

Respectfully submitted,

Jared Bruton  
pro se

**CERTIFICATE OF SERVICE**

This is to hereby certify that a true and correct copy of the same MEMORANDUM IN SUPPORT was placed in the U.S. Mail, postage pre-paid and served upon: Sandra Hairston, ESQ., AUSA, Post Office Box 1858, Greensboro, NC 27402.

s/ Jared Bruton  
Jared Bruton  
pro se  
FCI MCDOWELL  
PO BOX 1009  
WELCH, WV 24801